



Federal Communications Commission  
Washington, D.C. 20554

MAY 20 1996

The Honorable Dianne Feinstein  
United States Senate  
331 Hart Senate Office Building  
Washington, D.C. 20510

RECEIVED

MAY 23 1996

FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

Dear Senator Feinstein:

Thank you for the correspondence dated May 1, 1996, on behalf of several of your constituents, regarding the Commission's policies for licensing 800 MHz Specialized Mobile Radio (SMR) systems. Your constituents express concern regarding the Commission's decision to redesignate the 800 MHz General Category Pool frequencies. Your constituents also express concern about the proposed use of competitive bidding procedures to award future licenses on these frequencies.

On December 15, 1995, the Commission issued a First Report and Order, Eighth Report and Order, and Second Further Notice of Proposed Rule Making (First Report and Order) in PR Docket No. 93-144, which addressed the treatment of the General Category. In the First Report and Order, the Commission determined that the overwhelming majority of General Category channels are used for SMR as opposed to non-SMR service. In fact, our licensing records indicate that there are three times as many SMR licensees using General Category channels as any other type of Part 90 licensee. The Commission therefore concluded that the most efficient use of the General Category channels would be to redesignate them exclusively for SMR use. Thus, the First Report and Order provided that in the future, only SMR service providers will be eligible for new licenses in the General Category pool. Existing non-SMR licensees on General Category channels will continue to operate under their current authorizations, however, and will be fully protected from interference by new SMR licensees. In addition, the Commission's decision specifies that SMR service providers are no longer eligible to apply for licenses on Business or Industrial/Land Transportation channels. As a result, we anticipate that the First Report and Order will make more spectrum available for licensees such as your constituents, who are currently eligible, and will continue to be eligible, to apply in the Business and Industrial/Land Transportation categories. For your convenience and information, enclosed is a copy of the Press Release concerning the First Report and Order, which includes a summary of the principal decisions and proposals made.

The Commission's decision to auction 800 MHz SMR spectrum is consistent with Section 309(j) of the Communications Act, which sets forth certain criteria for determining when auctions should be used to award spectrum licenses. Pursuant to these criteria, auctions are to be used to award mutually exclusive initial licenses or construction permits for services likely to involve the licensee receiving compensation from subscribers. The statute also requires that the Commission determine that auctioning the spectrum will further the public interest objectives of Section 309(j)(3) by promoting rapid development of service, fostering competition, recovering a portion of the value of the spectrum for the public, and encouraging efficient spectrum use. The Commission has concluded that auctioning of SMR licenses

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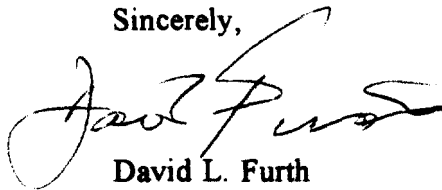
The Honorable Dianne Feinstein

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satisfies these criteria. In particular, we believe that auctions will minimize administrative or judicial delays in licensing, particularly in comparison to other licensing methods such as comparative hearings, lotteries (which are specifically prohibited by the statute if the service is auctionable), or "first-come, first-served" procedures. We note that the statute does not distinguish between new services (such as Personal Communications Services) and existing services in terms of whether initial licenses in a given service are auctionable. As noted above, however, the Commission's decision to use auctions applies only to issuance of initial licenses in the service, and is not intended to affect rights afforded to licensees under existing authorizations.

Thank you for your inquiry.

Sincerely,

A handwritten signature in black ink, appearing to read "David L. Furth", with a stylized flourish at the end.

David L. Furth  
Chief, Commercial Wireless Division  
Wireless Telecommunications Bureau

Enclosure

FAX from ...

*PRB  
PR-SMRS*  
**Senator Dianne Feinstein**

**of California**

331 Hart Senate Office Building  
Washington, DC 20510  
(202) 224-3841

*2246*

DATE: May 1, 1996

TIME: 3:09 pm

TO: Ken Johnson

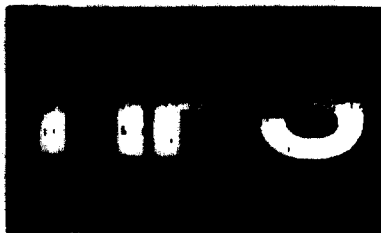
FCC

FROM: ~~Re~~ Stephen Goodman

COMMENTS: Re: FCC PR Docket No. 93-144

TOTAL NUMBER OF PAGES (INCLUDING COVER SHEET): 11

NOTE: The information contained in this facsimile is confidential. If you receive this transmission in error, please notify the sender immediately.



P.O. BOX 6386 • BAKERSFIELD, CA 93386  
(805) 324-2121 • FAX (805) 322-5648  
CA LIC 477948 • NV LIC 0039424

March 19, 1996

Dear Senator Feinstein:

Re: FCC PR Docket No. 93-144, Redesignation of the 800 MHz General Category Pool to a Commercial-only Service and Proposed Implementation of Competitive Bidding Processes

In the above referenced proceeding, the Federal Communications Commission has reallocated 150 channels in the 800 MHz band that have been shared jointly by both private and commercial licensees for more than twenty years. The FCC's justification for this aggressive action was simply that the "overwhelming majority" of channels were used for commercial operations. In fact, while there are a significant number of commercial subscriber-based operations, there are also more than 3,400 non-commercial licensees. We happen to be one of the latter who do not use the spectrum to generate business revenues.

HPS Plumbing Services, Inc. has been in business for over 35 years as a General Contractor, Subcontractor and Service & Repair Plumbing Company. HPS currently has over 48 trucks equipped with communications radios, as well as 5 radios inside the office to dispatch. These radios are used in dispatching HPS employees to emergency service calls and various jobsites. Employees can also contact the office when they have questions or need additional assistance. These communications radios are the "backbone" of HPS.

Now that the FCC has reclassified the band for commercial use, it has, simultaneously, provided itself authority to conduct auctions and has proposed to do so. These actions are extremely predatory to the spectrum of rights that were afforded my company. We should retain a fairly reasonable expectation that - as a non-commercial entity operating a radio system in a spectrum band where there is little opportunity for mutually exclusive applications - we would not be subjected to federally forced competitive bidding processes.

We do not support - nor do we believe you should support - FCC regulatory actions that would seem to exceed the FCC's auction authority as set forth in the Omnibus Budget Reconciliation Act of 1993. In granting authority to the FCC to award such authorizations by auction, we understood that Congress expressly limited such authority to such situations involving mutually exclusive applications. Further, section 309 (j)(6)(E) of the 1993 Budget Act directed the FCC to make every effort to avoid mutually exclusive situations by use of engineering solutions, such as frequency coordination. The opportunity to generate revenues was not to be used as justification for ignoring this congressional directive.

We respectfully request that you urge the FCC to reverse its recent redesignation of the 800 MHz General Category pool. That action alone would preclude the FCC from instituting auction processes in a band that is heavily encumbered by both private and commercial licensees. We are at a loss to understand federal government action that would expose our firm to having to compete for spectrum through auctions when our assigned channels were validly licensed in accordance with existing policy.

Your interest and assistance will be most appreciated.

Sincerely,



Les DenHerder  
President

HPS Plumbing Services, Inc.

cc: Mark E. Crosby

# MITTRY FARMS

P.O. BOX 338 • SULTANA • CA 93666



MAIL ROOM  
2-5-1996

Senator Diane Feinstein  
1700 Montgomery St. Suite 305  
San Francisco, CA 94111

Dear Senator Feinstein,

Ref: FCC PR Docket No. 93-144, Redesignation of the 800 MHz General Category Pool to a Commercial-only Service and Proposed Implementation of Competitive Bidding Processes.

In the above-referenced proceeding, the Federal Communications Commission has reallocated 150 channels in the 800 MHz band that have been shared jointly by both private and commercial licensees for more than twenty years. The FCC's justification for this aggressive action was simply that the "overwhelming majority" of channels were used for commercial operations. In fact, while there are a significant number of commercial subscriber-based operations, there are also more than 3,400 non-commercial licensees. We happen to be one of the latter who do not use the spectrum to generate business revenues.

We do not use our frequencies to generate business revenues. We farm approximately 800 acres of tree fruit spanning 2 counties and find that the radio system is the only way that our field managers can keep in constant contact with each other. The majority of our field managers job is done in the field and with out the radio system we would have no way to relay messages or monitor the progress in the fields. The system enhances our business productivity and protects the welfare of our employees and resources.

Now that the FCC has reclassified the band for commercial use, it has, simultaneously, provided itself authority to conduct auctions and has proposed to do so. These actions are extremely predatory to the spectrum rights that were afforded my company. We should retain a fairly reasonable expectation that - as a non-commercial entity operating a radio system in a spectrum band where there is little opportunity for mutually exclusive applications - we would not be subjected to federally forced competitive bidding processes.

# MITTRY FARMS

P.O. BOX 338 • SULTANA • CA 93666



We do not support - nor do we believe you should - FCC regulatory actions that would seem to exceed the FCC's auction authority as set forth in the Omnibus Budget Reconciliation Act of 1993. In granting authority to the FCC to award such authorizations by action, we understood that Congress expressly limited such authority to situations involving mutually exclusive applications. Further, section 309(j)(6)(E) of the 1993 Budget Act directed the FCC to make every effort to avoid mutually exclusive situations by use of engineering solutions, such as frequency coordination. The opportunity to generate revenues was not to be used as justification for ignoring this congressional directive.

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Sincerely,

Richard Mittry, President  
Mittry Farms Inc.

## **HILLCREST WATER COMPANY**

707 N. GEO. WASHINGTON BLVD.  
YUBA CITY, CALIFORNIA 95993  
(916) 673-8053

March 19, 1996

U.S. Senator Dianne Feinstein  
525 Market St., Ste 3670  
San Francisco, CA 94105

Re: FCC PR Docket No. 93-144, Redesignation of the 800 MHz General  
Category Pool to a Commercial-only Service and Proposed Implemen-  
tation of Competitive Bidding Processes.

Dear Senator Feinstein:

In the above referenced proceeding, the Federal Communications Commission has reallocated 150 channels in the 800 MHz band that have been shared jointly by both private and commercial licensees for more than twenty years. The FCC's justification for this aggressive action was simply that the "overwhelming majority" of channels were used for commercial operations. In fact, while there are a significant number of commercial subscriber-based operations there are also more than 3,400 non-commercial licensees. We happen to be one of the later who do not use the spectrum to generate business revenues.

Hillcrest Water Company is a small privately owned utility serving approximately 3940 domestic water customers in Sutter County, Calif. We use our radios for immediate contact between our field men and their immediate contact with our office staff both for daily routine and emergency service.

Now that the FCC has reclassified the band for commercial use, it has, simultaneously, provided itself authority to conduct auctions and has proposed to do so. These actions are extremely predatory to the spectrum rights that were afforded my company. We should retain a fairly reasonable expectation that - as a non-commercial entity operating a radio system in a spectrum band where there is little opportunity for mutually exclusive applications - we would not be subjected to federally forced competitive bidding processes.

We do not support, nor do we believe you should support, FCC regulatory actions that would seem to exceed the FCC's auction authority as set forth in the Omnibus Budget Reconciliation Act of 1993. In granting authority to the FCC to award such authorizations by auction, we understand that Congress expressly limited such authority to situations involving mutually exclusive applications. Further, section 309(j)(6)(E) of the 1993 Budget Act directed the FCC to make every effort to avoid mutually exclusive situations by use of engineering solutions, such as frequency coordination. The opportunity to generate revenues was not to be used as justification for ignoring this congressional directive.

We respectfully request that you urge the FCC to reverse its recent redesignation of the 800 MHz General Category pool. That action alone would preclude the FCC from instituting auction processes in a band that is heavily encumbered by both private and commercial licensees.

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We are at a loss to understand federal government action that would expose our firm to having to compete for spectrum through auctions when our assigned channels were validly licensed in accordance with existing policy.

Your interest and assistance will be most appreciated.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Daryl Morrison".

Daryl Morrison, Pres.  
HILLCREST WATER COMPANY

DM/jc





CORPORATE OFFICES:  
 LOS BANOS GRAVEL COMPANY  
 22101 SUNSET AVENUE  
 P.O. BOX 1111 • LOS BANOS, CALIFORNIA 93635 • (209) 826-5066  
 FAX • (209) 826-8539

March 19, 1996

The Honorable Diane Feinstein  
 United States Senate  
 U.S. Senate Office Building  
 Washington, DC 20510

Re: FCC PR Docket No. 93-144, Redesignation of the 800 MHz General  
 Category Pool to a Commercial-only Service and Proposed  
 Implementation of Competitive Bidding Processes

Dear Senator Feinstein:

In the above-referenced proceeding, the Federal Communications Commission has reallocated 150 channels in the 800 MHz band that have been shared jointly by both private and commercial licensees for more than twenty years. The FCC's justification for this aggressive action was simply that the "overwhelming majority" of channels were used for commercial operations. In fact, while there are a significant number of commercial subscriber-based operations, there are also more than 3,400 non-commercial licensees. We happen to be one of the latter who do not use the spectrum to generate business revenues.

We use our 800 MHz system extensively in the daily course of our business to dispatch and control our 194 vehicles which deliver concrete and gravel to construction sites, in Fresno, Merced and Stanislaus counties.

Now that the FCC has reclassified the band for commercial use, it has, simultaneously, provided itself authority to conduct auctions and has proposed to do so. These actions are extremely predatory to the spectrum rights that were afforded my company. We should retain a fairly reasonable expectation that - as a non-commercial entity operating a radio system in a spectrum band where there is little opportunity for mutually exclusive applications - we would not be subjected to federally forced competitive bidding processes.

• DOS PALOS CONCRETE COMPANY	• P.O. BOX 246	• DOS PALOS, CA 93620	• 382-2381
• WESTSIDE CONCRETE COMPANY	• 28525 BAMBAUER RD.	• GUSTINE, CA 95322	• 854-3088
• FIREBAUGH CONCRETE COMPANY	• P.O. BOX 758	• FIREBAUGH, CA 93622	• 659-2336
• MENDOTA CONCRETE COMPANY	• 1300 BELMONT	• MENDOTA, CA 93640	• 655-4432
• LOS BANOS ASPHALT COMPANY	• P.O. BOX 1111	• LOS BANOS, CA 93635	• 826-5066
• KERMAN CONCRETE COMPANY	• 14761 W. CALIFORNIA	• KERMAN, CA 93630	• 846-9275

We do not support - nor do we believe you should support - FCC regulatory actions that would seem to exceed the FCC's auction authority as set forth in the Omnibus Budget Reconciliation Act of 1993. In granting authority to the FCC to award such authorizations by auction, we understood that Congress expressly limited such authority to situations involving mutually exclusive applications. Further, section 309 (j)(6)(E) of the 1993 Budget Act directed the FCC to make every effort to avoid mutually exclusive situations by use of engineering solutions, such as frequency coordination. The opportunity to generate revenues was not to be used as justification for ignoring this congressional directive.

We respectfully request that you urge the FCC to reverse its recent redesignation of the 800 MHz General Category pool. That action alone would preclude the FCC from instituting auction processes in a band that is heavily encumbered by both private and commercial licensees. We are at a loss to understand federal government action that would expose our firm to having to compete for spectrum through auctions when our assigned channels were validly licensed in accordance with existing policy.

Your interest and assistance will be most appreciated.

Sincerely,



Ted Falasco  
President  
Los Banos Gravel Co.

TF/ja T221/M



Senator Dianne Feinstein  
U.S. Senate  
Washington, DC 20510

Dear Senator Dianne Feinstein:

RE: FCC PR Docket No. 93-144, Redesignation of the 800 MHz General Category Pool to a Commercial-only Service and Proposed Implementation of Competitive Bidding Processes.

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Our company operates a field service business serving Kern, Tulare and King Counties. It is very important that we know where our technicians are located, their status, and safety. Radio is a vital tool to stay competitive.

Now that the FCC has reclassified the band for commercial use, it has, simultaneously, provided itself authority to conduct auctions and has proposed to do so. These actions are extremely predatory to the spectrum rights that were afforded my company. We should retain a fairly reasonable expectations that - as a non-commercial entity operating a radio system in a spectrum band where there is little opportunity for mutually exclusive applications - we would not be subjected to federally forced competitive bidding processes.

We do not support - nor do we believe you should support - FCC regulatory actions that would seem to exceed the FCC's auction authority as set forth in the Omnibus Budget Reconciliation Act of 1993. In granting authority to the FCC to award such authorizations by auction, we understood that Congress expressly limited such authority to situations involving mutually exclusive applications. Further, section 309 (j)(6)(E) of the 1993 Budget Act directed the FCC to make every effort to avoid mutually exclusive situations by use of engineering solutions, such as frequency coordination. The opportunity to generate revenues was not to be used as justification for ignoring this congressional directive.

We respectfully request that you urge the FCC to reverse its recent redesignation of the 800 MHz General Category pool. That action alone would preclude the FCC from instituting auction processes in a band that is heavily encumbered by both private and commercial licensees. We are at a loss to understand federal government action that would expose our firm to having to compete for spectrum through auctions when our assigned channels were validly licensed in accordance with existing policy.

- Enclosed is typical FCC mega-boondoggle (see AMTA report 96-8).
- On October 31, 1995 FCC grants 6300 frequencies, but fails to send out licenses.
- On March 14, 1996 FCC tells the industry to use the frequencies but we don't know who or what was granted.
- Now the FCC tells us to build out the frequencies before October 31, 1996 or lose it.

Your interest and assistance will be most appreciated.

Sincerely,

*Lon B. Barnes*  
Cellular Communications



**J.R. WOOD, INC.**

*"Frozen Fruit — Cold Storage"*

March 30, 1996

The Honorable Dianne Feinstein  
United States Senate  
331 Hart Office Building  
Washington, D.C. 20510

Dear Senator Feinstein:

The Federal Communications Commission (FCC) has recently reallocated 150 channels in the 800 MHz band that were previously shared by both private and commercial licensees for more than twenty years. The FCC's justification for this aggressive action was simply that the "overwhelming majority" of channels were used for commercial operations. In fact, while there are a significant number of commercial subscriber-based operations, there are also more than 3,400 non-commercial licensees. We happen to be one of the non-commercial licensees who do not use the spectrum to generate business revenues.

JR Wood, Inc. is a vertically integrated agricultural identity with operations in various locations throughout the San Joaquin Valley of California.

After reclassifying the 800 MHz band for commercial use, the FCC announced that it would conduct auctions in this spectrum. These actions are extremely predatory to the spectrum rights that were afforded my company under our license. JR Wood, Inc. is a non-commercial entity operating a radio system in a spectrum band where there is little opportunity for mutual exclusive applications. We should not be forced to enter a federally forced competitive bidding process.

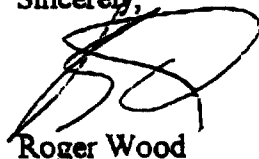
Senator Barbara Boxer  
March 30, 1996  
800 MHz Issue  
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We do not support the FCC regulatory actions and feel that these actions exceed the FCC's auction authority as set forth in the Omnibus Budget Reconciliation Act of 1993. In granting authority to the FCC to award such authorizations by auction, we understood that Congress expressly limited such authority to situations involving mutually exclusive applications. Further, section 309 (j)(6)(E) of the 1993 Budget Act directed the FCC to make every effort to avoid mutually exclusive situations by engineering solutions, such as frequency coordination. The opportunity to generate revenues was not to be used as justification for ignoring this congressional directive.

We respectfully request that you investigate this matter and request that you urge the FCC to reverse its re designation of the 800 MHz General Category pool. We strongly urge that the FCC reverse this decision since this band is heavily encumbered by both private and commercial licensees. We can not understand when the federal government would force our firm to compete for spectrum space through auctions when our assigned channels were validly licensed in accordance with existing policy.

Your interest and assistance in this matter will be most appreciated. If you have any questions please call me at the listed number. For technical assistance please contact Mr. Mike Wiley, Director of Maintenance at extension 600.

Sincerely,



Roger Wood  
Vice President

WCB/bb

cc: Correspondence file